

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2002-121-T - ORDER NO. 2002-590 ✓

AUGUST 20, 2002

IN RE: Application of Terry L. Strickland D/B/A	)	ORDER
Strong Man Movers, 1901-C Holly Drive,	)	GRANTING
North Myrtle Beach, South Carolina 29582,	)	CLASS E
for a Class E Certificate of Public	)	CERTIFICATE
Convenience and Necessity to Transport	)	
Commodities.	)	

This matter comes before the Public Service Commission of South Carolina (the "Commission") on the Application of Terry L. Strickland d/b/a Strong Man Movers (hereafter referred to as "Strong Man Movers" or the "Applicant" or the "Company"). By its Application, Strong Man Movers requests a Class E Certificate of Public Convenience and Necessity to transport household goods. Specifically, the Applicant seeks authority to transport household goods as follows:

HOUSEHOLD GOODS, AS DEFINED IN R.103-210(1):  
Between points and places in Horry, Georgetown, and  
Marion counties.

The Commission's Executive Director instructed the Company to publish a Notice of Filing in a newspaper of general circulation in the service area desired. The Notice of Filing provided details of the Application and of the requested authority and provided information for public participation in the proceedings concerning the Application. No Petitions to Intervene were filed.

A hearing on Strong Man Mover's Application was held on July 17, 2002, at 2:30 P.M. in the hearing room at the offices of the Commission. The Honorable Mignon L. Clyburn, Chairman, presided at the hearing. Randall L. Hartman, Esquire, represented the Applicant. Jocelyn G. Boyd, Staff Counsel, represented the Commission Staff.

**APPLICABLE LAW**

1. S.C. Code Ann. § 58-23-20 (Supp. 2001) provides in part:

No corporation or person, his lessees, trustees, or receivers may operate a motor vehicle for the transportation of persons or property for compensation on an improved public highway in this State except in accordance with the provisions of this chapter, except where the use of a motor vehicle is incidental only to the operation, and any such operation is subject to control, supervision, and regulation by the commission in the manner provided by this chapter.

...

2. S.C. Code Ann. § 58-23-40 (1976) provides:

No motor vehicle carrier shall hereafter operate for the transportation of persons or property for compensation on any improved public highway in this State without first having obtained from the Commission, under the provisions of Article 3 of this chapter, a certificate and paid the license fee required by Article 5.

3. S.C. Code Ann. § 58-23-590(A) (Supp. 2001) provides:

The commission shall promulgate regulations necessary to control entry and certification standards, set rates and charges, and establish enforcement procedures and powers to govern the operations of carriers of household goods and hazardous waste for disposal.

4. S.C. Code Ann. § 58-23-590(C) (Supp. 2001) provides:

The commission shall issue a common carrier certificate or contract carrier permit of public convenience and necessity if the applicant proves to the Commission that:

- (1) it is fit, willing, and able to properly perform the proposed service and comply with the provisions of this chapter and the commission's regulation; and
- (2) the proposed service, to the extent to be authorized by the certificate or permit, is required by the present public convenience and necessity.

The commission shall adopt regulations that provide criteria for establishing that the applicant is fit, willing, and able, and criteria for establishing that the applicant must meet the requirements of public convenience and necessity. The determination that the proposed service is required by the public convenience and necessity must be made by the commission on a case by case basis.

5. Following enactment of S.C. Code Ann. § 58-23-590, the Commission proposed amendments and changes to the Commission's regulations governing Motor Carriers. The amended regulations became effective in June 1998.

6. 26 S.C. Regs. 103-102(1) (Supp. 2001) defines "Certificate of PC&N" as the certificate of public convenience and necessity authorized to be issued under provisions of Chapter 23 of Title 58 of the Code of Laws of South Carolina, 1976. Certificates of PC&N shall be required of all for-hire passenger carriers, household goods carriers (except those operating exclusively within the limits of any municipality), and hazardous waste for disposal carriers. Holders of Certificates of PC&N shall be considered regulated carriers.

7. 26 S.C. Regs. 103-102(5) (Supp. 2001) defines "Common Carrier by Motor Vehicle" as "any person<sup>1</sup> which holds itself out to the general public to engage in the transportation by motor vehicle in intrastate commerce of persons or property for compensation, whether over regular or irregular routes, except as exempted in Section 58-23-50 and Section 58-23-70 of Code of Laws of South Carolina, 1976."

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<sup>1</sup> 26 S.C. Code Regs. 103-102(15) defines "person" as "any individual, firm, partnership, corporation, company, association, or joint-stock association, and includes any trustee, receiver, assignee, or personal representative thereof."

8. A “Class E Motor Carrier” is defined in 26 S.C. Regs. 103-114 (Supp. 2001) as a common carrier of property (household goods or hazardous waste for disposal) by motor vehicle including a motor vehicle containing goods packed by a packing service. A Class E motor carrier must obtain either a Certificate of PC&N or FWA from the Commission.”

9. 26 S.C. Code Regs. 103-133 (Supp. 2001) is entitled “Proof Required to Justify Approving an Application” and provides in subsection (1) as follows:

(1) PC&N (Household Goods or Hazardous Waste for Disposal). An application for a Certificate of PC&N or to amend a Certificate of PC&N to operate as a carrier of household goods or hazardous waste for disposal by motor vehicle may be approved upon a showing that the applicant is fit, willing, and able to be appropriately perform the proposed service and that public convenience and necessity are not already being served in the territory by existing authorized service. The public convenience and necessity criterion must be shown by the use of shipper witnesses. If the Commission determines that the public convenience and necessity is already being served, the Commission may deny the application. The following criteria should be used by the Commission in determining that an applicant for motor carrier operating authority is fit, willing, and able to provide the requested service to the public:

- a. FIT. The applicant must demonstrate or the Commission determine that the applicant’s safety rating is satisfactory. This can be obtained from U.S.D.O.T. and S.C.P.D.P.S safety records. Applicants should also certify that there are no outstanding judgments pending against such applicant. The applicant should further certify that he is familiar with all statutes and regulations, including safety operations in South Carolina, and agree to operate in compliance with these statutes and regulations.
- b. ABLE. The applicant should demonstrate that he has either purchased or leased on a long-term basis

necessary equipment to provide the service for which he is applying. Thirty days or more shall constitute a long-term basis. The applicant must undergo an inspection of all vehicles and facilities to be used to provide the proposed service. The applicant should also provide evidence in the form of insurance policies or insurance quotes, indicating that he is aware of the Commission's insurance requirements and the costs associated therewith.

- c. WILLING. Having met the requirements as to "fit and able," the submitting of the application for operating authority would be sufficient demonstration of the applicant's willingness to provide the authority sought.

10. 26 S.C. Code Regs. 103-134 (Supp. 2001) is entitled "When Hearing May Be Held" and provides in relevant part that "[w]hen an application for a Certificate of PC&N is submitted and there is no opposition, the Commission may hold a hearing if it deems necessary for the purpose as it shall determine, including the issue of fitness, willingness, or ability of the applicant to appropriately perform the proposed service, or the issue of whether public convenience and necessity are already being served."

#### **EVIDENCE OR RECORD**

Terry L. Strickland of Strong Man Movers testified for the Applicant. Strickland testified that the Company holds currently neither a Safety Rating from the United States Department of Transportation nor a South Carolina Department of Public Safety rating. The witness also does not currently have any accidents or violations on his driving record. Mr. Strickland's South Carolina Department of Public Safety driving record was admitted into evidence as Hearing Exhibit One. Additionally, there are no outstanding judgments against the Applicant.

Strickland has made provisions for the leasing of a twenty-four foot moving truck from Penske Truck Rentals. The gross vehicle weight of this truck is 20,000 pounds. The truck would be covered by the insurance quote that was submitted with the Application. Strong Man Movers has no intention of carrying hazardous materials.

Regarding the need for another mover in Horry, Georgetown, and Marion counties, Strickland testified that after reviewing the Horry Telephone's Yellow Pages, he noticed that the number of movers in the counties Strong Man Movers seeks to serve, had not increased over the past two years. Additionally, Strickland testified that he has reviewed newspapers for advertisements of household movers. Based on Strickland's review of movers' advertisements in newspapers, he testified that he did not notice movers' advertisements on a weekly or daily basis. Moreover, Strickland presented a U.S. Census Report illustrating population growth in Myrtle Beach. A Census 2000 Comparison of 1990 and 2000 Population and Percent Change for South Carolina were also made part of the record of the proceeding.

Strickland testified that he obtained a business license and he joined the Chamber of Commerce. He operated his moving business in South Carolina until he was contacted by Inspector Clifford Gamble of the Commission in early March 2002. The moving jobs that Strickland performed prior to being contacted by Mr. Gamble included local deliveries. Prior to being contacted by Mr. Gamble, Mr. Strickland operated Strong Man Movers for approximately ten months. The testimony further reveals that Strickland has received several telephone calls from local individuals requesting Strong Man Movers' moving services. Mr. Strickland received phone calls quite frequently (three or four calls

a week) from residents of Georgetown, Horry, and Marion counties regarding his moving services. The time period within which customers have requested Strong Man Movers' services has varied – sometimes customers request moving services for the next day or for two weeks later.

Regarding Mr. Strickland's prior experience moving household goods, the testimony reveals that Mr. Strickland previously worked for furniture stores in North Myrtle Beach and Little River, South Carolina for approximately three and one-half or four years. Soon thereafter, Mr. Strickland decided that he wanted to open his own business moving household goods.

Mr. Strickland's office is in his home. The Applicant anticipates employing six to eight personnel to move household goods. Strickland requires that the personnel he hires possess prior moving experience. Other equipment Strong Man Movers will use to move household goods includes piano movers, dollies, appliance movers, blankets, and boxes. Mr. Strickland does not currently have storage facilities.

Regarding Strong Man Movers' proposed rates and charges, Strickland agreed to work with Maria Walker, Auditor of the Commission's Transportation Department, to amend the proposed rates and charges and tariff so that the tariff is in compliance with the Commission's rules.

#### **FINDINGS OF FACT**

After full consideration of the Application, the testimony presented, and the applicable law, the Commission makes the following findings of fact:

1. According to the Application and the testimony presented, Strong Man Movers desires to provide moving services of household goods between points and places in Horry, Georgetown, and Marion counties. We find that based upon the evidence presented at the hearing, the Applicant should be granted authority to provide moving services of household goods between points and places in Horry, Georgetown, and Marion counties.

2. The Applicant, Strong Man Movers, is fit, willing, and able to provide and properly perform the services which it seeks to provide in Horry, Georgetown, and Marion counties. This finding of fact is based upon the testimony of Terry Strickland and the Application. "Fitness" was demonstrated by Terry Strickland testifying (1) that the Applicant is aware of the requirement for a safety rating and will undergo the requisite safety inspection, (2) that there are no outstanding judgments pending against the Applicant, and (3) that the Applicant will operate in compliance with all statutes and regulations pertaining to for-hire motor carrier operations. Further, the application contains (1) a certification that the Applicant is familiar with the regulations and statutes governing for-hire motor carrier services and (2) that there are no outstanding judgments pending against the Applicant. "Able" was demonstrated by the testimony of Terry Strickland who testified that he has prior moving experience from working in a furniture store for three and one-half to four years. Additionally, Strickland testified that Strong Man Movers will lease one twenty-four foot moving van from Penske Truck Rentals. Additionally, the Company owns moving equipment such as dollies, wheelers, blankets, and boxes. Further, according to the Financial Statement Exhibit of the Applicant, Strong

Man Movers possesses the financial wherewithal necessary to provide household good moving services between points and places in Horry, Georgetown, and Marion counties. Moreover, according to the Application, Strong Man Movers is aware of the Commission's insurance requirements and provided assurance that Strong Man Movers would obtain the requisite insurance coverage. "Willingness" was demonstrated by the filing of the Application and the testimony of Terry Strickland indicating the Applicant's desire to undertake this business venture.

3. The public convenience and necessity would be served by Strong Man Movers receiving authority to provide household goods services between points and places in Horry, Georgetown, and Marion counties. This finding of fact is based upon the testimony of Terry Strickland. Moreover, the testimony reveals that Strong Man Movers has received numerous calls from the Horry, Georgetown, and Marion county areas from persons inquiring about the Applicant's moving services.

### **CONCLUSIONS OF LAW**

Based upon the above Findings of Fact and the applicable law, the Commission concludes as follows:

1. The Commission concludes that Strong Man Movers has demonstrated through the Application and the testimony presented that it meets the requirements of fit, willing, and able as set forth in 26 S.C. Code Ann. Regs. 103-133 (Supp. 2001).
2. The Commission concludes that Strong Man Movers has sufficiently demonstrated through its presentation that the public convenience and necessity between

points and places in Horry, Georgetown, and Marion counties requires the services proposed by Strong Man Movers.

3. Based on the conclusions above, that Strong Man Movers has demonstrated that it meets the requirements of fit, willing, and able and that Strong Man Movers has demonstrated that the public convenience and necessity require its services in Horry, Georgetown, and Marion counties, the Commission concludes that a Class E Certificate of Public Convenience and Necessity should be granted to Strong Man Movers with the authority to provide for the movement of household goods between points and places in Horry, Georgetown and Marion counties, South Carolina. This grant of authority is contingent upon Strong Man Movers complying with all Commission regulations, and this grant of authority is not effective until such time as Strong Man Movers comes into compliance with the Commission regulations as outlined below.

IT IS THEREFORE ORDERED THAT:

1. The Applicant, Terry L. Strickland d/b/a Strong Man Movers should be granted a Class E Certificate of Public Convenience and Necessity authorizing Strong Man Movers to provide transportation services by motor vehicle as follows:

HOUSEHOLD GOODS, AS DEFINED IN R.103-210(1):  
Between points and places in Horry, Georgetown, and  
Marion Counties, South Carolina.

2. Strong Man Movers shall file the proper license fees and other information required by S.C. Code Ann. Section 58-23-10 et seq. (1976), as amended, and by R.103-100 through R.103-241 of the Commission's Rules and Regulations for Motor Carriers, S.C. Code Ann. Vol. 26 (1976), as amended, and R.38-400 through 38-


503 of the Department of Public Safety's Rules and Regulations for Motor Carriers, S.C. Code Ann. Vol. 23A (1976), as amended, within sixty (60) days of the date of this Order, or within such additional time as may be authorized by the Commission.

3. Upon compliance with S.C. Code Ann. Section 58-23-10, et seq. (1976), as amended, and the applicable Regulations for Motor Carriers, S.C. Code Ann., Vol. 26 (1976), as amended, a Certificate shall be issued to Strong Man Movers authorizing the motor carrier services granted herein.

4. Prior to compliance with the above-referenced requirements and receipt of a Certificate, the motor carrier services authorized herein shall not be provided.

5. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
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Mignon L. Clyburn  
Chairman

ATTEST:

  
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Gary E. Walsh  
Executive Director

(SEAL)